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10/595,714	03/26/2007	Timothy Freeze	CPG 03-19 MB	5160

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MEADWESTVACO CORPORATION  
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1021 Main Campus Drive  
Raleigh, NC 27606

EXAMINER
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PAGAN, JENINE MARIE

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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02/24/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,714	<b>Applicant(s)</b> FREEZE, TIMOTHY	
	<b>Examiner</b> JENINE M. PAGAN	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2008 and 08 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action acknowledges the applicant's amendments filed 8/4/2008 and 10/08/2008. Claims 1-11 and 17-28 are pending in the application. Claims 12-16 are cancelled.

The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action.

### ***Drawings***

2. The objection to the drawing has been removed in response to the Applicant's Amendment.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Karow (US 6,230,893 B1).

**Claim 1:** Karow discloses (Figures 2, 5 and 9):

- a slide card (100) comprising an engaging element (106) and at least one tray receiving area (120)
- at least one preformed tray (112), attached to said tray receiving area (120), configured to receive and hold at least one portable item (122);
- an outer sleeve (50) configured to receive said card (100) and attached tray (112), comprising a locking element (Column 4, Lines 61-65) configured to connect with said engaging element (106) at a locking position; and

- a release element (30) integral to said outer sleeve (50), configured to disconnect said engaging element (106) from said locking element (Column 4, Lines 61-65

**Claim 2:** Karow discloses (Figures 2, 5 and 9):

- card (100) is constructed of a first material and said tray (112) is constructed of a second material

**Claim 4:** Karow discloses (Figures 2, 5 and 9):

- engaging element (106) is positioned on said tray (112)

**Claim 5:** Karow discloses (Figures 2, 5 and 9):

- tray (112) comprises at least one receiving recess (110) configured to receive and hold said portable item (122)

**Claim 6:** Karow discloses (Figures 2, 5 and 9):

- card (100) is constructed of a first material and said tray (112) is constructed of a second material

**4.** Claims 7-11 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Karow (US 6,230,893 B1).

**Claim 7:** Karow discloses (Figures 2, 5 and 9):

- a slide card (100) constructed of a first material, comprising at least a first panel (102) and at least one tray receiving area (120) located on said first panel (102);

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- at least one pre-formed tray (112) constructed of a second material and comprising at least one receiving recess (110), attached to said card (100) at said tray receiving area (120); and,
- an outer sleeve (50) defining a void, comprising an open end configured to permit said card (100) and attached tray (112) to translate in and out of said void

**Claim 8:** Karow discloses (Figures 2, 5 and 9):

- slide card (100) further comprises an engaging element (106) connected to at least one of said first panel(102) and said tray (112)

**Claim 9:** Karow discloses (Figures 2, 5 and 9):

- outer sleeve (50) further comprises a locking element configured to releasably connect to said engaging element (106) at a locking position

**Claim 10:** Karow discloses (Figures 2, 5 and 9):

- outer sleeve (50) further comprises a release (30) configured to disconnect said engaging element (106) from said locking element (Column 4, Lines 61-65)

**Claim 11:** Karow discloses (Figures 2, 5 and 9):

- outer sleeve (50) further comprises a stopping element configured to connect to said engaging element (106) at a stopping position

**Claim 26:** Karow discloses (Figures 2, 5 and 9):

- a given said receiving recess 110 is configured to receive and secure at least one portable item 122

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5. Claims 17 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Karow (US 6,230,893 B1).

**Claim 17:** Karow discloses (Figures 2, 5 and 9):

- an engaging panel 106 defined by a first edge and spaced apart hinge;
- a second panel 104 defined by said hinge and a spaced apart second edge;
- a tray integral to said second panel 104;
- at least one receiving recess 110 located within said tray 112, configured to receive and hold an item 122; and,
- a third panel 108 hingedly attached to at least one of said second edge and said tray 112, said third panel 108 being configured to fold over and cover said item

**Claim 27:** Karow discloses (Figures 2, 5 and 9):

- a given said receiving recess 110 is configured to receive and secure at least one portable item 122

It is noted that the claims as presented are directed to a product and method of using the product. As currently presented, the method is the mere assembly of the product and its examination in conjunction with the product does not represent a serious burden at this time; therefore, no restriction is required. However, if subsequent amendments to the claims result in diverging subject matter and searches between the claimed inventions, the examiner reserves the right to restrict at that time.

6. Claims 20-23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Karow (US 6,230,893 B1).

**Claim 20:** Karow discloses (Figures 2, 5 and 9):

- providing a slide card 100 comprising a base panel 102;
- attaching a pre-formed tray 112 comprising at least one receiving recess 110 to said base panel 102;
- providing an engaging element 106 associated with at least one of said card 100 and said tray 112;
- placing an item 122 in said receiving recess 110;
- providing an outer sleeve 50 with an open end and adjacent void, said sleeve 50 further comprising a locking element (Column 4, Lines 61-65);
- aligning said card 100 with said open end;
- orienting said engaging element 106 with said locking element (Column 4, Lines 61-65)
- inserting said card 100 and tray 12 fully into said void;
- causing said engaging element 106 and said locking element (Column 4, Lines 61-65) to releasable connect

**Claim 21:** Karow discloses (Figures 2, 5 and 9):

- step of providing an outer sleeve 50 further comprises providing an outer sleeve 50 having a release element 30, said release element 30 being configured to disconnect said engaging element 106 and said locking element (Column 4, Lines 61-65)

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**Claim 22:** Karow discloses (Figures 2, 5 and 9):

- the step of manipulating said release element 30 being to withdraw said tray 112 at least partially

**Claim 23:** Karow discloses (Figures 2, 5 and 9):

- the step of withdrawing said item 122 from said recess 110

**Claim 28:** Karow discloses (Figures 2, 5 and 9):

- receiving recess 110 is configured to receive and secure an item 122

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 18-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Karow (US 6,230,893 B1) in view of Watson (US 4,657,138).

**Claim 3:** Karow discloses the claimed invention as stated above in claim 1 and 2 except Karow does not specifically disclose:

- second material is plastic

However Watson discloses:

- second material is plastic

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the second material to be made of plastic as taught by Watson in Col 2:56-63, since it has been held to be within the general skill of a



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worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

**Claim 18:** Karow discloses the claimed invention as stated above in claim 17 except Karow does not specifically disclose:

- panels and said tray are constructed using a thermo-forming process

However Watson discloses:

- panels and said tray are constructed using a thermo-forming process

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the panels and trays constructed using a thermo-forming process as taught by Watson in Col 2:56-63, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e. the tray, does not depend on its method of production, i.e. thermo-forming process. In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985)

**Claim 19:** Karow discloses the claimed invention as stated above in claim 17 except Karow does not specifically disclose:

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- panels and said tray are constructed using an injection molding process

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the panels and trays constructed using injection molding process as taught by Watson in Col 2:56-63, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e. the tray, does not depend on its method of production, i.e. thermo-forming process. In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985)

9. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karow (US 6,230,893 B1) in view of Locke et al. (US 4,248,349).

**Claim 24:** Karow discloses the claimed invention as stated above in claim 1 and 5 except Karow does not specifically disclose:

the given said recess includes a resistance element configured to resist removal of an item

However Locke discloses:

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- said recess 30'-35' includes a resistance element 11/62/66/67 configured to resist removal of an item 53'

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the recess of Karow to include resistance elements as taught by Locke, since Locke suggests at Col 3:17-18 that such a modification would create contact between the recess and item to prevent the item from falling out of the tray.

**Claim 25:** Karow discloses the claimed invention as stated above in claim 1 and 24 except Karow does not specifically disclose:

- the resistance element is one of a locking flap, an indentation, a strap, and an insert

However Locke discloses:

- the resistance element 11/62/66/67 is one of a locking flap, an indentation, a strap, and an insert

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the recess of Karow to include resistance elements contain a locking flap, an indentation, a strap and an insert as taught by Locke, since Locke suggests at Col 3:17-18 that such a modification would create contact between the recess and item to prevent the item from falling out of the tray.

***Response to Arguments***

10. Applicant's arguments filed 8/04/2008 have been fully considered but they are not persuasive. Applicant argues that the art of reference Karow does not disclose the claimed items stated in the independent claims 1, 7 and 20. It is shown in the Karow reference that the slide card 100 is slideable in and out of the outer sleeve 50. The preformed tray is constructed of portable items, in this case the item is medication. The outer sleeve 50 encloses the slide card and preformed tray.

11. Applicant's arguments with respect to claims 3, 18-19 and 24-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728

/Jenine M Pagan/  
Examiner, Art Unit 3728